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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/300,494	04/28/1999	ARTHUR ROBERT CALDERBANK	CALDERBANK-1	4523
7590 09/15/2005				
HENRY T. BRENDZEL				
P.O. BOX 574				
SPRINGFIELD, NJ 07081				
		EXAMINER		
		FAN, CHIEH M		
		ART UNIT	PAPER NUMBER	
		2634		

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/300,494

Applicant(s)

CALDERBANK ET AL.

Examiner

Chieh M. Fan

Art Unit

2638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See continuation sheet. (See 37 CFR 1.116 and 41.33(a)).

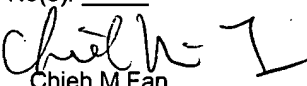
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Chieh M Fan
Primary Examiner
Art Unit: 2638

Response to Amendment

Advisory is responsive to Amendment submitted with petition on Dec. 22, 2003 and also claim listing provided with petition filed on April 26, 2004.

1. In the Office Action mailed 4/23/2003, the examiner indicated claim 5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 5 depends on claim 4, which in turn depends on claim 3. Therefore, in order to have placed the claim chain in condition for allowance, the applicant was required to have incorporated all of the limitations of claims 3, 4 and 5 in independent form. However, in the proposed amendment, the applicant only incorporated the limitation of claim 5 directly into claim 3. Therefore, the amendment, as proposed, raised new issue that would require further consideration and/or search. Further, the original claim 5 recites, "said channel coders in said L channel coding/space-time coding transmitters develop rate R_i , $i=1,2,\dots,L$, that are not identical to each other" (emphasis added), which is also different than the limitation "said coding/space-time coding transmitters develop rate R_i , $i=1,2,\dots,L$, that are not identical to each other" recited in claim 3 of the proposed amendment.

2. Claim 3 of the proposed amendment recites the limitation "said plurality of signal streams" in line 5. There is insufficient antecedent basis for this limitation in the claim.

The applicant needs to change the limitation "L signal streams" in lines 2-3 to --- L plurality of signal streams --- to overcome the insufficient antecedent basis problem.

3. Similarly, Claim 15 of the proposed amendment recites the limitation "said plurality of signal streams" in line 5. There is insufficient antecedent basis for this limitation in the claim. The applicant needs to change the limitation "L signal streams" in lines 2-3 to --- L plurality of signal streams --- to overcome the insufficient antecedent basis problem. Further, " $i=1,2,\dots,L$ " in line 4 should be deleted, and "developing at R_i ," in line 5 should be change to --- developing at rates R_i , $i=1,2,\dots,L$, ---.

4. Claims 11-14, although "withdrawn", are still present in the application. Applicant has not provided an amendment which cancelled claims 11-14.